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9
10 **BEFORE THE**
DEPARTMENT OF CONSUMER AFFAIRS
11 **BUREAU OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. VN-2005-1823

14 MARILYN AQUINO DAGDAG,
a.k.a. MARILYN DAGDAG
15 13153 Bella Rosa Road
San Diego, California 92131

A C C U S A T I O N

16 Vocational Nurse License No. VN 184652

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

- 21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this
22 Accusation solely in her official capacity as the Executive Officer of the Bureau of Vocational
23 Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.
- 24 2. On or about May 27, 1998, the Bureau issued Vocational Nurse License
25 Number VN 184652 to Marilyn Aquino Dagdag, also known as Marilyn Dagdag ("Respondent").
26 Respondent's vocational nurse license was in full force and effect at all times relevant to the
27 charges brought herein and will expire on June 30, 2010, unless renewed.

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STATUTORY AND REGULATORY PROVISIONS

3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with Code section 2875) of the Vocational Nursing Practice Act.

4. Code section 477 provides, in pertinent part, that "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

5. Code section 2878 states, in pertinent part:

The [Bureau] may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence or gross negligence in carrying out usual nursing functions . . .

6. California Code of Regulations, title 16, section ("Regulation") 2519 states:

As set forth in Section 2878 of the Code, gross negligence is deemed unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'gross negligence' means a substantial departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent licensed vocational nurse, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the consumer shall be considered a substantial departure from the above standard of care.

7. Regulation 2520 states:

As set forth in Section 2878 of the Code, incompetence is deemed unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 'incompetence' means the lack of possession of and the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by responsible licensed vocational nurses.

8. Regulation 2518.5 states, in pertinent part:

The licensed vocational nurse performs services requiring technical and manual skills which include the following:

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2 (b) Provides direct patient/client care by which the licensee:

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4 (2) Administers medications . . .

5 9. Regulation 2518.6 states, in pertinent part:

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7 (b) A licensed vocational nurse shall adhere to standards of the profession
8 and shall incorporate ethical and behavioral standards of professional practice
9 which include but are not limited to the following:

10 (1) Maintaining current knowledge and skills for safe and competent
11 practice . . .

12 10. Code section 118, subdivision (b), provides, in pertinent part, that the
13 expiration of a license shall not deprive the Bureau of jurisdiction to proceed with a disciplinary
14 action during the period within which the license may be renewed, restored, reissued or
15 reinstated. Pursuant to Code section 2892.1, the Bureau may renew an expired license at any
16 time within four years after the expiration.

17 COST RECOVERY

18 11. Code section 125.3 provides, in pertinent part, that the Bureau may request
19 the administrative law judge to direct a licensee found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case.

22 FACTS

23 12. At all times herein mentioned, Respondent was employed as a licensed
24 vocational nurse at La Jolla Nursing and Rehabilitation Center ("LJNRC"), a skilled nursing
25 facility located in La Jolla, California.

26 13. On or about December 23, 2005, M. T., a 79 year old female patient, was
27 admitted to LJNRC after receiving treatment at Scripps Memorial Hospital ("Scripps"),
28 La Jolla, California, for fever, cough, and shortness of breath. M.T.'s medical history included
dementia, breast cancer, cerebrovascular accident, gout, diabetes, and chronic atrial fibrillation.

1 On admission to LJNRC, M.T.'s physician ordered M.T. to receive Coumadin¹ 10 mg by mouth
2 daily, but to hold the medication if the INR (international normalized ratio) was greater than 2.7.
3 The Daily Cumulative Summary Report dated December 23, 2005, received from Scripps
4 indicated that the laboratory results for M.T.'s INR testing of the same date were "pending" and
5 that M.T.'s previous days INR levels were 3.5, 3.2, and 2.2 for December 22, 21, and 20, 2005,
6 respectively. LJNRC's care plan for M.T. indicated that there was increased potential for
7 bleeding due to the use of the anti-coagulant for diagnosis of M.T.'s "DVT prophylaxis", that
8 M.T.'s lab values, including INR, were to be monitored and all values reported to the doctor, that
9 venipuncture sites were to be monitored for excessive bleeding, and that the Coumadin was to be
10 administered "per MD orders".

11 14. On or about December 30, 2005, Respondent administered Coumadin
12 10 mg to M. T.

13 15. On or about January 17, 2006, it was reported that M.T. had been
14 vomiting and was diaphoretic with abnormal vital signs. LJNRC staff contacted the physician,
15 who instructed the staff to call 911 and have M.T. transported to Scripps. 911 was called at
16 approximately 1535 hours. Paramedics arrived at LJNRC at 1540 hours and transported M.T. to
17 Scripps. At approximately 1830 hours, Scripps telephoned LJNRC and informed the facility that
18 M.T. *had an IRN of 20* with massive bleeding into the brain. M.T. died on January 18, 2006.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Gross Negligence)**

21 16. Respondent is subject to disciplinary action pursuant to Code section
22 2878, subdivision (a)(1), on the grounds of unprofessional conduct. On or about December 30,
23 2005, while employed as a licensed vocational nurse at LJNRC, Respondent was guilty of gross
24 negligence in her care of patient M. T. within the meaning of Regulation 2519, as follows:

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27 1. Coumadin is an anticoagulant medication (blood thinner). In order to optimize the therapeutic effect
28 without risking dangerous side effects, such as bleeding, close monitoring of the degree of anticoagulation is
required by blood testing for the international normalized ratio (INR).

a. Respondent failed to review M.T.'s INR test results before administering the Coumadin.

b. Respondent failed to follow-up to determine why the proper lab work had not been obtained.

c. Respondent failed to call M.T.'s physician for an order for INR lab work and then notify the lab to perform a stat INR.

d. Respondent failed to consult with the admitting/supervising registered nurse.

SECOND CAUSE FOR DISCIPLINE

(Incompetence)

17. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 12 through 15, above.

18. Respondent is subject to disciplinary action pursuant to Code section 2878, subdivision (a)(1), on the grounds of unprofessional conduct, in that on or about December 30, 2005, while employed as a licensed vocational nurse at LJNRC, Respondent was guilty of incompetence in her care of patient M. T. within the meaning of Regulation 2520, as set forth in paragraph 16, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

19. Complainant incorporates by reference as though fully set forth herein the allegations contained in paragraphs 12 through 15, above.

20. Respondent is subject to disciplinary action pursuant to Code section 2878, subdivision (a), in that on or about December 30, 2005, while employed as a licensed vocational nurse at LJNRC, Respondent committed acts constituting unprofessional conduct, as set forth in paragraph 15 above.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Bureau of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

5 1. Revoking or suspending Vocational Nurse License Number VN 184652,
6 issued to Marilyn Aquino Dagdag, also known as Marilyn Dagdag;

7 2. Ordering Marilyn Aquino Dagdag, also known as Marilyn Dagdag, to
8 pay the Bureau of Vocational Nursing and Psychiatric Technicians the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3; and

11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: September 8, 2008

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15 TERESA BELLO-JONES, J.D., M.S.N., R.N.
16 Executive Officer
17 Bureau of Vocational Nursing and Psychiatric Technicians
18 Department of Consumer Affairs
19 State of California

20 Complainant
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